



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0707; FRL-9059-01-R4]

Air Plan Approval; North Carolina: Mecklenburg Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision to the Mecklenburg County portion of the North Carolina SIP, hereinafter referred to as the Mecklenburg Local Implementation Plan (LIP). The revision was submitted by the State of North Carolina, through the North Carolina Division Air Quality (NCDAQ), on behalf of Mecklenburg County Air Quality (MCAQ) via a letter dated April 24, 2020, and was received by EPA on June 19, 2020. The revision updates several Mecklenburg County Air Pollution Control Ordinance (MCAPCO) ambient air quality rules incorporated into the LIP and adds one new rule for fine particulate matter (PM_{2.5}). EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[Insert date 30 days after date of publication in the FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2020-0707, at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include

discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9144. Ms. Williams can also be reached via electronic mail at williams.pearlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Mecklenburg County LIP was originally submitted to EPA on June 14, 1990, and EPA approved the plan on May 2, 1991. *See* 56 FR 20140. Mecklenburg County prepared three submittals in order to modify the LIP for, among other things, general consistency with the North Carolina SIP.¹ The three submittals were submitted to EPA as follows: NCDAQ transmitted the October 25, 2017, submittal to EPA but withdrew it from review through a letter dated February 15, 2019. On April 24, 2020, NCDAQ resubmitted the October 25, 2017, update to EPA and also submitted the January 21, 2016, and January 14, 2019, updates. Due to an inconsistency with public notice at the local level, these submittals were withdrawn from EPA through a letter dated February 15, 2019. Mecklenburg County corrected this error, and NCDAQ submitted the updates in a revision dated April 24, 2020.²

II. What Action is EPA Proposing to Take?

¹ The Mecklenburg County, North Carolina revision that is dated April 24, 2020, and received by EPA on June 19, 2020, is comprised of three previous submittals – one dated January 21, 2016; one dated October 25, 2017; and one dated January 14, 2019.

² EPA notes that the April 24, 2020, submittal was received by EPA on June 19, 2020.

On April 24, 2020, NCDAQ submitted to EPA changes to the MCAPCO to be incorporated into the LIP.³ In this notice, EPA is proposing to act on certain updates and changes to the ambient air quality standards contained in the MCAPCO. Specifically, the January 14, 2019, portion of this submission includes changes and updates to Rules 2.0401 - *Purpose*; 2.0402 - *Sulfur Oxides*; 2.0404 - *Carbon Monoxide*; 2.0405 - *Ozone*; 2.0407 - *Nitrogen Dioxide*; and 2.0408 – *Lead* of MCAPCO Article 2.0000, Section 2.0400 – Ambient Air Quality Standards. Additionally, the January 14, 2019, portion of this submission includes Rule 2.0410 - *PM_{2.5} Particulate Matter* for initial incorporation into the LIP. The January 21, 2016, portion of this submission includes changes and updates Rule 2.0403 - *Total Suspended Particulates*. EPA is proposing to approve and incorporate these provisions into the LIP. These changes and additions are described in more detail below:

1. Rule 2.0401 - *Purpose* is revised to make minor, clarifying edits to capitalization, punctuation, and wording. These changes more closely align the rule with the SIP-approved state rule at 15A NCAC 02D .0401 – *Purpose*. For example, the word “state” is capitalized throughout the regulation, a hyphen is added between the words “Ground” and “level,” and the words “will” and “are” are replaced with the words “shall” or “shall be.”

2. Rule 2.0402 - *Sulfur Oxides* is revised to make minor, clarifying edits to punctuation and wording. In addition, paragraph (b) is revised to include a reference to 40 CFR Part 50, Appendix A-1. New language is added to specify that procedures within the Federal Equivalent Method (FEM), in addition to 40 CFR Part 50, are procedures to which sampling and analysis shall apply. Lastly, this regulation adds three new paragraphs: (c), (d), and (e). Paragraph (c) is added to distinguish that the standards listed in paragraphs (a)(1) and (2) shall apply until a year after the initial designation’s date documented in section 107(d) of the CAA. Finally, paragraph (e) specifies that the primary one-hour standard shall be demonstrated in accordance with

³ The April 24, 2020, submittal contains changes to other Mecklenburg LIP-approved rules that are not addressed in this notice. EPA will be acting on those rules in separate actions.

Appendix T of 40 CFR Part 50 in that when the three-year average of the annual of the daily maximum one-hour average concentrations is less than or equal to 75 parts per billion (ppb), the standard shall be met at an air monitoring site. These changes more closely align the rule with the SIP-approved state rule at 15A North Carolina Administrative Code (NCAC) 02D .0402 – *Sulfur Oxides* and are consistent with EPA’s primary and secondary national ambient air quality standards (NAAQS) for sulfur oxides specified at 40 CFR 50.5 and 50.17.

3. Rule 2.0403 - *Total Suspended Particulates* is revised to make minor clarifying edits to the rule text by adding the word “and” after paragraph (a)(1), which more closely aligns the rule with the SIP-approved state rule at 15A NCAC 02D .0403 – *Total Suspended Particulates*.⁴

4. Rule 2.0404 - *Carbon Monoxide* is revised to make clarifying edits to punctuation and wording, which more closely aligns the rule with the SIP-approved state rule at 15A NCAC 02D .0404 – *Carbon Monoxide* and is consistent with EPA’s primary NAAQS for carbon monoxide specified at 40 CFR 50.8.

5. Rule 2.0405 - *Ozone* is revised to make minor clarifying edits to the rule text, such as changing the word “is” to “shall be” and to change “8-hour” to “eight-hour.” In addition, this rule is revised to change the ozone ambient air quality standard from 0.08 parts per million (ppm) to 0.070 ppm and updates the applicable reference for determining attainment from Appendix I to Appendix U of 40 CFR Part 50. These changes more closely align the rule with the SIP-approved state rule at 15A NCAC 02D .0405 – *Ozone* and are consistent with EPA’s primary and secondary NAAQS for ozone specified at 40 CFR 50.19.

6. Rule 2.0407 - *Nitrogen Dioxide* is revised to incorporate clarifying language in paragraph (a) to be consistent with the NAAQS, distinguishing that the primary annual ambient air quality standard for nitrogen dioxide (NO₂) shall be 53 ppb annual average concentration measured in the ambient air as NO₂.

⁴ Although not shown by underlined text as a change in the January 21, 2016, submission, the addition of the word “and” was a change, and the only change, that was made to the existing federally approved Rule 2.0403.

This rule is also revised to add a new paragraph (b), to be consistent with the NAAQS, setting the primary one-hour ambient air quality standard for oxides of nitrogen to 100 ppb, one-hour average concentration, measured in the ambient air as NO₂. A new paragraph (c) is added to set the secondary ambient air quality standard for NO₂ to 0.053 ppm annual arithmetic mean concentration. The addition of these two new paragraphs shifts the original paragraph (b) to (d). The revised paragraph (d) contains minor edits to punctuation and includes FEM as one of the methods to which sampling and analysis should comply.

Two additional paragraphs are added to this rule: (e) and (f). Paragraph (e) establishes that, as determined in accordance with Appendix S of 40 CFR Part 50, attainment of the annual primary standard is achieved when the annual average NO₂ concentration in a calendar year is less than or equal to 53 ppb, while paragraph (f) establishes that the one-hour primary standard is attained when the three-year average of the 98th percentile of the daily maximum one-hour average concentration is less or equal to 100 ppb.

The additions of paragraph (e) and (f) result in the original paragraph (c) being moved to become paragraph (g). Paragraph (g) is altered to address the secondary NO₂ standard by making minor wording changes.

These changes more closely align the rule with the SIP-approved state rule at 15A NCAC 02D .0407 – *Nitrogen Dioxide* and are consistent with EPA’s primary and secondary NAAQS for oxides of nitrogen (with nitrogen dioxide as the indicator) specified at 40 CFR 50.11.

7. Rule 2.0408 - *Lead* is altered to make minor edits to punctuation and wording for clarification, which more closely aligns the rule with the SIP-approved state rule at 15A NCAC 02D .0408 – *Lead* and is consistent with EPA’s primary and secondary NAAQS for lead specified at 40 CFR 50.16.

8. Rule 2.0410 - *PM_{2.5} Particulate Matter* is added as a new rule to address EPA’s primary annual and 24-hour NAAQS for PM_{2.5}. This rule is consistent with EPA’s annual and

24-hour PM_{2.5} standard at 40 CFR 50.18 and corresponds with the North Carolina SIP's analog rule at 15A NCAC 02D .0410 – *PM2.5 Particulate Matter*.

EPA is proposing to approve the incorporation of the aforementioned MCAPCO rules into the Mecklenburg LIP because these rules add clarity to the LIP and are consistent with the CAA and applicable regulations.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Mecklenburg County Pollution Control Ordinance Rules 2.0401 - *Purpose*; 2.0402 - *Sulfur Oxides*; 2.0404 - *Carbon Monoxide*; 2.0405 - *Ozone*; 2.0407 - *Nitrogen Dioxide*; 2.0408 - *Lead*; and 2.0410 - *PM2.5 Particulate Matter*, all which have an effective date of December 18, 2018; as well as Rule 2.0403 - *Total Suspended Particulates*, with an effective date of December 15, 2015. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve and incorporate into the LIP changes to MCAPCO Rules 2.0401 - *Purpose*; 2.0402 - *Sulfur Oxides*; 2.0404 - *Carbon Monoxide*; 2.0405 - *Ozone*; 2.0407 - *Nitrogen Dioxide*; and 2.0408 - *Lead*, as well as the addition of Rule 2.0410 - *PM2.5 Particulate Matter*, all which have an effective date of December 18, 2018. Additionally, EPA is proposing to approve and incorporate into the LIP Rule 2.0403 - *Total Suspended Particulates* with an effective date of December 15, 2015. EPA has determined that these changes and additions meet the applicable requirements of Section 110 of the CAA and the applicable regulatory requirements at 40 CFR part 51.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: September 20, 2021.

John Blevins,
Acting Regional Administrator,
Region 4.

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